

MONTANA LEGISLATIVE HISTORY

Chapter 574 19 77

Bill H _____ S 167

Original bill & history X c

H. Committee on APPROPRIATIONS

Hearing Date(s) 4/8 X c

EXEC ACTION 4/9 X c

_____ c

_____ c

Date Out _____ c

S. Committee on TAXATION

Hearing Date(s) 2/3 X c

+ EXEC ACTION 2/15 X c

_____ c

_____ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

Re-Refered to

HOUSE TAXATION:

HEARINGS: None

EXEC ACTION: 4/16

1 *Senate* BILL NO. *167*
 2 INTRODUCED BY *Rasmussen Hager Brown Christensen*
 3 *Kistad Ferguson Lovell Stephens Blaylock*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE
 5 TAXATION OF INCOME; PROVIDING INCENTIVES FOR THE
 6 INSTALLATION OR ACQUISITION OF SOLAR OR OTHER RECOGNIZED
 7 NONFOSSIL FORMS OF ENERGY GENERATION BY TAXPAYERS BY
 8 PROVIDING INCOME OR LICENSE TAX CREDITS AND ACCELERATED
 9 AMORTIZATION OF THE COSTS OF THE SYSTEMS; AMENDING SECTIONS
 10 84-1502 AND 84-4906, R.C.M. 1947."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Energy system tax incentive for
 14 individuals. (1) A resident individual taxpayer who
 15 completes installation of an energy system using a
 16 recognized nonfossil form of energy generation, as defined
 17 in 84-7402, in such taxpayer's principal dwelling prior to
 18 December 31, 1982, or who acquires title to a dwelling prior
 19 to December 31, 1982, which dwelling is to be used as the
 20 taxpayer's principal dwelling and is equipped with an energy
 21 system for which the credit allowed by this section has
 22 never been claimed, is entitled to claim a tax credit in an
 23 amount equal to 40% of the first \$1,000 and 20% of the next
 24 \$3,000 of the cost of such system, including installation
 25 costs, or, if the federal government provides for a tax

1 credit substantially similar in kind (not in amount), then a
 2 tax credit in an amount equal to 20% of the first \$1,000 and
 3 10% of the next \$3,000 of the cost of such system, including
 4 installation costs, against the income tax liability imposed
 5 against such taxpayer pursuant to Title 84, chapter 49,
 6 R.C.M. 1947.

7 (2) The tax credit is to be deducted from the
 8 taxpayer's income tax liability for the taxable year in
 9 which the energy system was acquired by the taxpayer. If
 10 the amount of the tax credit exceeds the taxpayer's income
 11 tax liability for the taxable year, the amount which exceeds
 12 the tax liability may be carried over for deduction from the
 13 taxpayer's income tax liability in the next succeeding
 14 taxable year or years until the total amount of the tax
 15 credit has been deducted from tax liability. Notwithstanding
 16 the foregoing provision, no tax credit may be carried over
 17 for deduction after the fourth taxable year succeeding the
 18 taxable year in which the energy system was acquired.

19 Section 2. Energy system tax incentive for real
 20 property owners. A taxpayer, including a corporation, who
 21 completes installation of an energy system using a
 22 recognized nonfossil form of energy generation, as defined
 23 in 84-7402, upon real property located within this state
 24 prior to December 31, 1982, which real property is either
 25 used in a trade or business or held for the production of

INTRODUCED BILL

income, or any taxpayer who acquires title to real property located within this state prior to December 31, 1982, which real property is used in a trade or business or held for the production of income and is equipped with an energy system for which the credit allowed by this section has never been claimed, is entitled to claim an income tax credit or in the case of a corporation a license tax credit or income tax credit in an amount equal to 40% of the first \$3,000 and 20% of the next \$9,000 of the cost of the energy system, including installation costs, or if the federal government provides for a tax credit substantially similar in kind (not in amount), then an income tax credit in an amount equal to 20% of the first \$3,000 and 10% of the next \$9,000 of the cost of the energy system, including installation costs, or an amount equal to the taxpayer's income tax liability in the taxable year for which the credit is claimed, whichever is less, against the tax liability imposed against such taxpayer pursuant to Title 84, chapter 49, R.C.M. 1947 or in the case of a corporation, pursuant to Title 84, chapter 15 or chapter 69, R.C.M. 1947. The tax credit is to be deducted from the taxpayer's tax liability for the taxable year in which the energy system is acquired and placed into service by the taxpayer.

Section 3. Election to amortize energy system costs.

(1) A taxpayer who completes installation of an energy

system using a recognized nonfossil form of energy generation, as defined in 84-7402, upon real property located within this state prior to December 31, 1982, which real property is either used in a trade or business or held for the production of income, or any taxpayer who acquires title to real property located within this state prior to December 31, 1982, which real property is used in a trade or business or held for the production of income and is equipped with such an energy system, may elect to amortize the adjusted basis of the energy system based upon a period of 60 months.

(2) In computing Montana taxable income, amortization is to be allowed as a deduction from Montana adjusted gross income ratable over the 60-month period beginning with the month in which the energy system is completed or acquired and placed into service by the taxpayer. The election of the taxpayer to claim the amortization deduction allowed by this section is to be indicated in an appropriate statement attached to the taxpayer's income tax return for the taxable year in which the energy system was completed or acquired and placed into service. The election of the taxpayer to claim the amortization deduction does not preclude him from taking the tax credit.

(3) As used in this section, "adjusted basis of the energy system" means an amount that is properly attributable

to the construction, reconstruction, remodeling, installation, or acquisition of the system.

Section 4. Section 84-4906, R.C.M. 1947, is amended to read as follows:

"84-4906. Deductions allowed in computing net income. In computing net income, there ~~shall be~~ are allowed as deductions:

(a) ~~The the~~ items referred to in sections 161 and 211 of the Internal Revenue Code of 1954, or as sections 161 and 211 shall be labeled or amended, ~~except that state income tax paid shall not be deductible and also~~ subject to the following exceptions ~~provided in section 84-4909, relating to items which are~~ not deductible:

(i) items provided for in 84-4909;

(ii) state income tax paid;

(iii) all depreciation deductions claimed on the federal return for any portion of property upon which the deduction allowed by [section 3 of this act] is claimed;

(b) ~~Federal~~ federal income tax paid within the taxable year;

(c) an amount for the amortization deduction for an energy system allowed pursuant to [section 3 of this act]."

Section 5. Section 84-1502, R.C.M. 1947, is amended to read as follows:

"84-1502. Deductions allowed in computing income. In

computing the net income the following deductions shall be allowed from the gross income received by such corporation within the year from all sources:

1. All the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, subject to the limitation hereinafter contained, rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity. No deduction shall be allowed for salaries paid upon which the recipient thereof has not paid Montana state income tax; provided, however, that where domestic corporations are taxed on income derived from without the state, salaries of officers paid in connection with securing such income shall be deductible.

2. (A) All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the trade or business, such allowance to be determined according to the provisions of section 167 of the internal revenue code in effect with respect to the taxable year. However, insofar as the election to amortize the adjusted basis of an energy

1 system based upon a period of 60 months pursuant to [section
 2 3 of this act] is not permissible under federal law, an
 3 amount for the amortization deduction for an energy system
 4 allowed pursuant to [section 3 of this act] is allowed and
 5 the amount of all depreciation deductions claimed on the
 6 federal return for any portion of property upon which the
 7 deduction allowed by [section 3 of this act] is claimed are
 8 not allowed. All elections for depreciation shall be the
 9 same as the elections made for federal income tax purposes.
 10 No deduction, except as provided above, shall be allowed for
 11 any amount paid out for any buildings, permanent
 12 improvements or betterments made to increase the value of
 13 any property or estate and no deduction shall be made for
 14 any amount of expense of restoring property or making good
 15 the exhaustion thereof for which an allowance is or has been
 16 made.

17 (B) (a) There shall be allowed as a deduction for the
 18 taxable period a net operating loss deduction determined
 19 according to the provisions of this subsection. The net
 20 operating loss deduction is the aggregate of net operating
 21 loss carryovers to such taxable period plus the net
 22 operating loss carrybacks to such taxable period. The term
 23 "net operating loss" means the excess of the deductions
 24 allowed by this section, 84-1502, over the gross income,
 25 with the modifications specified in paragraph (b) of this

1 subsection. If for any taxable period beginning after
 2 December 31, 1970, a net operating loss is sustained, such
 3 loss shall be a net operating loss carryback to each of the
 4 three (3) taxable periods preceding the taxable period of
 5 such loss and shall be a net operating loss carryover to
 6 each of the five (5) taxable periods following the taxable
 7 period of such loss. The portion of such loss which shall be
 8 carried to each of the other taxable years shall be the
 9 excess, if any, of the amount of such loss over the sum of
 10 the net income for each of the prior taxable periods to
 11 which such loss was carried. For purposes of the preceding
 12 sentence, the net income for such prior taxable period shall
 13 be computed with the modifications specified in paragraph
 14 (b) (ii) of this subsection and by determining the amount of
 15 the net operating loss deduction without regard to the net
 16 operating loss for the loss period or any taxable period
 17 thereafter, and the net income so computed shall not be
 18 considered to be less than zero.

19 (b) The modifications referred to in paragraph (a) of
 20 this subsection shall be as follows:

- 21 (i) No net operating loss deduction shall be allowed.
- 22 (ii) The deduction for depletion shall not exceed the
- 23 amount which would be allowable if computed under the cost
- 24 method.
- 25 (c) A net operating loss deduction shall be allowed

1 only with regard to losses attributable to the business
2 carried on within the state of Montana.

3 (d) In the case of a merger of corporations, the
4 surviving corporation shall not be allowed a net operating
5 loss deduction for net operating losses sustained by the
6 merged corporations prior to the date of merger.

7 In the case of a consolidation of corporations, the new
8 corporate entity shall not be allowed a deduction for net
9 operating losses sustained by the consolidated corporations
10 prior to the date of consolidation.

11 (e) Notwithstanding the provisions of section
12 84-1508.1 (c), R.C.M., 1947, interest shall not be paid with
13 respect to a refund of tax resulting from a net operating
14 loss carryback or carryover.

15 (f) The net operating loss deduction shall not be
16 allowed with respect to taxable periods which ended on or
17 before December 31, 1970, but shall be allowed only with
18 respect to taxable periods beginning on or after January 1,
19 1971.

20 3. In the case of mines, other natural deposits, oil
21 and gas wells, and timber, a reasonable allowance for
22 depletion and for depreciation of improvements, such
23 reasonable allowance to be determined according to the
24 provisions of the internal revenue code in effect for the
25 taxable year. All elections made under the internal revenue

1 code with respect to capitalizing or expensing exploration
2 and development costs and intangible drilling expenses for
3 corporation license tax purposes shall be the same as the
4 elections made for federal income tax purposes.

5 4. The amount of interest paid within the year on its
6 indebtedness incurred in the operation of the business from
7 which its income is derived; but no interest shall be
8 allowed as a deduction if paid on an indebtedness created
9 for the purchase, maintenance or improvement of property or
10 for the conduct of business unless the income from such
11 property or business would be taxable under this act.

12 5. Interest income from obligations of the state of
13 Montana, or any political subdivision or municipality of the
14 state of Montana.

15 6. Taxes paid within the year except the following:

16 (a) Taxes imposed by this act.

17 (b) Taxes assessed against local benefits of a kind
18 tending to increase the value of the property assessed.

19 (c) Taxes on or according to or measured by net income
20 or profits imposed by authority of the government of the
21 United States.

22 (d) Taxes imposed by any other state or country upon
23 or measured by net income or profits.

24 Taxes deductible under this act shall be construed to
25 include taxes imposed by any county, school district or

1 municipality of this state."

2 Section 6. There is a new R.C.M. section that reads as
3 follows:

4 Department of revenue duties. The department of revenue
5 shall prescribe rules necessary to carry out the purposes of
6 this act.

7 Section 7. There is a new R.C.M. section that reads as
8 follows:

9 Time of application. The provisions of this act apply
10 to all taxable years commencing after December 31, 1976.

-End-

STATE OF MONTANA

REQUEST NO. 134-77

FISCAL NOTE

Form BD-15

compliance with a written request received January 21, 19 77, there is hereby submitted a Fiscal Note
Senate Bill 167 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members
of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION

This bill is an act relating to the taxation of income; providing incentives for the
installation or acquisition of solar or other recognized nonfossil forms of energy generation
by taxpayers by providing income or license tax credits and accelerated amortization of the
costs of the systems.

ASSUMPTIONS

1. The number of taxpayers taking advantage of the proposed amortization deduction and
tax credit, for individual income tax purposes, would be between 0.5% and 1% of all
returns, and these taxpayers will be found in the top 10% of all returns. The
distribution of these returns will be similar to the distribution of returns for
calendar year 1975.
2. Each of the hypothetical taxpayers of assumption 1 will install \$1,000.00 worth of
non-fossil energy generation equipment.
3. The amortization deduction for each affected taxpayer will be \$170 per year, as
determined by the sinking fund method using 8% as the annual rate of interest and
\$1,000 (from assumption 2) as the final amount at the end of 5 years.
4. The individual income tax credit for each affected taxpayer will be \$400.
5. The percentage decreases in total calendar year tax liability under assumptions 1-4
will apply equally to calendar years 1977, 1978 and 1979.
6. The Department of Revenue forecast of individual income tax for 1978 and 1979 is
assumed to be the basis for comparison.

FISCAL IMPACT

	<u>FY 78</u>	<u>FY 79</u>
Individual Income Tax Collection under current law.	\$123.732M	\$140.093M
Individual Income Tax Collection under proposed law.	<u>\$121.959M to \$122.768M</u>	<u>\$137.851M to \$138.973M</u>
DECREASE INDIV. INCOME TAX COLLECTIONS	<u>\$1.773M to \$.964M</u>	<u>\$2.242M to \$1.12M</u>

The amounts estimated for decrease in revenue do not include decreases for corporation
license tax collections. Available data makes it impossible to estimate what impact
the proposed legislation might have on corporation license tax collections.

(Continued on page 2)

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

STATE OF MONTANA

REQUEST NO. 134-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 21, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 167 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Page 2

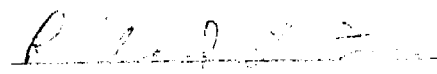
LONG-RANGE EFFECTS

0.8% to 1.6% decrease in individual income tax collections. It is impossible to estimate the effect on corporation tax collections.

TECHNICAL NOTE

An implicit assumption is that the Department of Revenue will not require any additional staff for auditing, investigations, and administration under the proposed law. This is probably not realistic.

PREPARED BY DEPARTMENT OF REVENUE


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-24-77

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. 134-77

REVISED
AMENDED

Form BD-15

compliance with a written request received April 12, 19 77, there is hereby submitted a Fiscal Note
Senate Bill 167 ^{AMENDED} ~~Revised~~ pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.
 Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members
 of the Legislature upon request.

THIS IS A REVISED FISCAL NOTEDESCRIPTION

This bill is an act relating to the taxation of income; providing incentives for the installation or acquisition of solar or other recognized nonfossil forms of energy generation by taxpayers by providing income or license tax credits and accelerated amortization of the costs of the systems.

ASSUMPTIONS

1. The number of taxpayers taking advantage of the proposed amortization deduction and tax credit, for individual income tax purposes, would be between 0.5% and 1% of all returns, and these taxpayers will be found in the top 10% of all returns. The distribution of these returns will be similar to the distribution of returns for calendar year 1975.
2. Each of the hypothetical taxpayers of assumption 1 will install \$1,000.00 worth of non-fossil energy generation equipment.
3. The amortization deduction for each affected taxpayer will be \$170 per year, as determined by the sinking fund method using 8% as the annual rate of interest and \$1,000 (from assumption 2) as the final amount at the end of 5 years.
4. The individual income tax credit for each affected taxpayer will be \$400.
5. The percentage decreases in total calendar year tax liability under assumptions 1-4 will apply equally to calendar years 1977, 1978 and 1979.
6. The Department of Revenue forecast of individual income tax for 1978 and 1979 is assumed to be the basis for comparison.

FISCAL IMPACT

	<u>FY 78</u>	<u>FY 79</u>
Individual Income Tax Collection under current law.	\$123.732	\$140.093
Individual Income Tax Collection under proposed law.	\$122.845M to \$123.250M	\$138.972M to \$139.533M
DECREASE INDIV. INCOME TAX COLLECTIONS	<u>(\$.887M) - (\$.482M)</u>	<u>(\$1.121M) - (\$.560M)</u>

The amounts estimated for decrease in revenue do not include decreases for corporation license tax collections. Available data makes it impossible to estimate what impact the proposed legislation might have on corporation license tax collections.

(Continued on page 2)

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

COMMITTEE ON

TAXATION

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
100	1/14	1/26	1/26	1/26					
102	1/14	1/27	2/9	2/9					
114	1/17 -	REFERRED TO AGRICULTURE COMM.							
118	1/17	1/25	1/25			1/25			
129	1/18	1/28	1/28			1/28			
130	1/18	1/28	1/28			1/28			
137	1/19	2/1	2/1	2/1					
145	1/19	2/1	2/8			2/8			
150	1/19	2/1	2/8			2/8			
155	1/20	2/2	2/2	2/2					
158	1/20	2/2	2/25		2/25				
159	1/20	2/3	2/8			2/8			
167	1/20	2/3 3/15	3/15			3/15			
181	1/21	2/4	2/8			2/8			
192	2/4		2/18			2/18			
193	1/21	2/8	2/22			2/22			

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 3, 1977

The seventeenth meeting of the Taxation Committee was called to order in Room 415 of the State Capitol building on the above date by Chairman Mathers at 8:05 a.m.

ROLL CALL: Roll call found all of the members present.

The following witnesses were present:

Bob Gannen	Mont. Power-Western Energy
Jim Mockler	Mont. Coal Council
Ernest Post	Mont. State AFL-CIO
Torian Donohoe	Env. Info. Center
Stephen Williams	Anaconda Co.
Patrick Binns	Post Subcontractor to MEAC
Howard O. Vralstad	Dept. of Rev.
A.G. Slattery	"
Dennis Burr	"
Kenneth K. Morrison	"
Laureen France	Al Dougherty MT Mining Assoc.
Gorham E. Swanberg	Mont. R.R. Assoc.
Ward Shanahan	Dreyer Bros. Inc.
Lester H. Loble, II	Mont. Dakota Util. Co.
Don L. Allen	Petroleum Industry
F. H. Boles	Mont. Chamber of Commerce

CONSIDERATION OF SENATE BILL 159: Sen. Towe said his bill would permit a tax exemption for coal producers who produce less than 20,000 tons of coal per year. He said there are a few producers in the state who produce less than this amount and he believed the present severance tax was not equitable for these small producers. Mr. Morrison said the Department was also in favor of the bill since it provided some measure of tax relief to small mine operators.

The Chairman called for other proponents or opponents and there being none, called for questions from the committee. It was brought out that the effect on county tax revenues would not be substantial and counties that had received the extra revenues as a result of the legislation which levied the taxes as specified in the last Legislature, had recognized they had a windfall that would not be of a permanent nature, therefore, could not be included in their regular budgeting. It was mentioned also that there was no effective date and the committee agreed to remedy this.

Sen. Turnage Moved to Amend the Title to SB159 by adding an effective date and to add a new section reading thus: 'This act shall be effective for all tax years after December 31, 1976.' The motion was seconded by Sen. Goodover and carried unanimously.

CONSIDERATION OF SENATE BILL 211: Sen. Towe said there had been an attempt to tax rights of entry on property which caused

'abandonment' of such lands, would create problems as well.

Sen. Mathers stated that since he too was a signer of SB211, he had some testimony. He stated he had been to many meetings in the Eastern part of the state where many people were upset that people received income through their mineral rights, yet paid no taxes on this property. He too felt the tax to be set would be minimal as compared to the value of the minerals, and if this were not so, then the holder could then sell such rights.

Following his brief comment, the Chairman asked for questions and Sen. Roskie said he had several. Mr. Burr replied that the Department would have difficulty in assessing minerals not yet extracted, but no more than they had at assessing under the right of entry law.

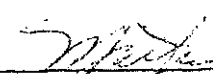
Due to lack of additional time the Chairman said that further discussion on the bill would have to await an executive action meeting of the committee and concluded the hearing on SB212.

CONSIDERATION OF SENATE BILL 167: Sen. Rasmussen, Dist. 16, said the bill continues with the concept of solar energy research. He said the Montana Energy Advisory Council had issued a statement on possibilities of solar energy utilization in Montana and his bill would encourage the development of such resources through a tax exemption. He introduced Mr. Binns who has been a consultant with the MEAC for the last 3 months. He said that although some larger firms are advancing in such research and use, the Council felt that the individual home owner and small businessman should be encouraged to use such energy as well and tax exemptions appeared to be a way to encourage this. Mr. Post also spoke in favor of the legislation, mentioning the problems that lack of fuel had caused in the East this winter and the fact that so many were out of work as a result. Ms. Donohoe also favored the legislation as did Mr. Boles who thought the exemptions were good incentives.

The Chairman then permitted closing remarks by Sen. Rasmussen and he stated he believed Montana had great potential in this field and thought individuals should not only have exemptions for the investment, but should be allowed depreciation on the system as well.

Following his final presentation several of the committee had questions but due to the lengthy testimony it was necessary to call for adjournment.

ADJOURN: Sen. Brown moved the meeting adjourn. His motion was seconded by Sen. Goodover; motion carried.


WILLIAM MATHERS

CHAIRMAN

SENATE *TAXATION* COMMITTEE

5. B.
BILL 159, 167, 211

VISITORS' REGISTER

DATE 2/3/77

Please note bill no.

(check one)

OPPOSE

X



X

9

✓

Answer

X

X

X

X

X

L

X

✓

MOINT. ENERGY ADU. COUN

MOINT. ENERGY ADU. COUN

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY



Ernest E. Post

Box 1176, Helena, Montana

ZIP CODE 59601

JAMES W. MURRY
EXECUTIVE SECRETARY

LUNDY SHOPPING CENTER
MISSOULA HIGHWAY

REMARKS OF ERNEST E. POST, ON SENATE BILL 167, HEARINGS OF THE SENATE TAXATION COMMITTEE, FEBRUARY 3, 1977

The working men and women who make up the Montana State AFL-CIO have directed their legislative representatives to support the development of alternate forms of energy. In keeping with a position to that effect that was adopted by the membership last summer during our 20th annual convention, I appear before you today in support of Senate Bill 167.

Right now, at the other end of our country, there are some communities that will be completely without natural gas very soon if the current, bitter cold winter they are experiencing continues. The residents of those communities are trying to adjust to emergency measures that make it illegal to waste energy. Businesses are operating on a strictly enforced 40-hour week, with some workplaces shut down completely, and homes are being inspected for violations of emergency orders to reduce thermostats to 65 degrees by day and 60 by night.

The only thing saving us in Montana from the same fate this year is a freak winter that has singled out the Midwest and the Eastern Seaboard. We bask in unseasonably warm temperatures this winter, but we've all lived here long enough to know that the most predictable characteristic about Montana's weather is its unpredictability.

Our country has been gambling with its fate for years, as far as energy consumption goes. We have been irresponsible in our exploitation, production and consumption of our energy resources. While the East Coast is on the verge of collapse as natural gas supplies expire, we really don't know where we stand right now in Montana with our natural gas reserves. State officials have estimated a supply that may last anywhere from 12 to 87 years. Power company officials who, up until two months ago, made dire predictions about future supplies and prices of natural gas, are now telling us we have abundant supplies. As consumers, we have no way of knowing who is right, but we do know we're dealing with limited supplies of energy resources.

In the meantime, our nation's dependence on oil from insecure, foreign sources has increased. The United States is more dependent on Arab oil now than ever before. In the first quarter of 1975, 22.7 per cent of our country's oil imports came from Arab countries. That number was up from the 17.9 per cent in the fourth quarter of 1974 and the approximately 15 per cent in the months preceding the Arab oil embargo. The threat of an embargo still exists. At any moment, the Arab nations could shut off the flow of oil and plunge our country into an economic and energy crisis that would dwarf that of 1973 and 1974.

Living under that threat and knowing that our supplies are numbered, we have a responsibility to encourage the development and use of alternative energy systems utilizing renewable resources. Senate Bill 167 represents a meaningful effort to start dealing with a crisis we have created, and I urge you, as lawmakers, to assume the responsibility in meeting this crisis.

opeiu #2, afl-cio

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 15, 1977

The forty-third meeting of the Taxation Committee was called to order on the above date at 3:50 p.m., for executive action by Chairman Mathers in Room 415 of the State Capitol Building. All of the members were present for ROLL CALL.

Up for additional discussion for the meeting was SB211. Sen. Towe spoke briefly about his bill saying he wanted to give the landowner the right to purchase the mineral rights if they were to be sold for taxes under due process and he wished to put this amendment into the bill. He had ready some of the amendments that the committee had tentatively agreed upon, however, that portion of the bill dealing with the right of surface owners to have first chance to buy the rights was not amended to the satisfaction of all the members.

The Chairman then suggested an informaal vote to see if the bill would go out of committee, and this showed the vote would be very close.

DISPOSITION: Sen. Norman Moved SB211 Do Not Pass. A roll call vote was taken and it resulted in a 7-3 vote, thus the motion carried and the bill will go out with adverse report.

The committee then took up SB167 and Sen. Rasmussen was present to give additional input concerning his bill. The committee discussed it further and agreed to amend it to half the tax credits as the bill was written.

Sen. Towe moved to amend SB167 by reducing the percentages listed in the bill by 1/2. The motion carried unanimously.

DISPOSITION: Following additional discussion, Sen. Watt Moved SB167 As Amended, Do Pass. A roll call vote was taken on this also, and the motion carried 8-2.

DISPOSITION: The committee referred next to SB348, and were informed they had acted upon this bill with a Do Not Pass on February 10, but the report was being held pending action by the committee on SB167. Sen. Watt then Moved SB348 go out with same committee report, that of Do Not Pass. Motion unanimous.

Sen. Watt then Moved SB435 Be Tabled. Motion also carried.

Following this, the meeting adjourned.


WILLIAM MATHERS

CHAIRMAN

SENATE COMMITTEE TAXATION

Date 3/15 Bill No. 167 Time 4:30

NAME	YES	NO
SEN. WATT	✓	
SEN. BROWN	✓	
SEN. GOODOVER	✓	
SEN. HEALY	✓	
SEN. MANNING	✓	
SEN. NORMAN	✓	
SEN. ROSKIE	✓	
SEN. TOWE	✓	
SEN. TURNAGE		✓
CHAIRMAN MATHERS		✓

8 2

Nita Fjeseth
Secretary

William L. Mathers
Chairman

Motion:

do Pass as Am

Motion Carried

(include enough information on motion--put with yellow copy of committee report.)

APPROPRIATIONS COMMITTEE

45__ Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 421	Establish a resident student financial assistance program.	3/23/77	Thomas	4/8/77	Concurred In	4/9
SB 239	Enable Dept. of Agriculture to provide assistance for noxious plant management and to obtain funds to assist local governments managing noxious plants.	3/26/77	Boylan, Others	4/8/77	Concurred In	4/9
835	Appropriate funds to Office of Superintendent of Public Instruction for conducting adult basic education programs.	3/26/77	Kessler, Others	3/29/77	As Amended Do Pass	3/30
836	Appropriating money for acquisition of Wild Horse Island; immediate effective date.	3/29/77	Driscoll, Others	3/29/77	Do Pass	3/30
SB 167	Providing incentives for installation of solar or other non-fossil forms of energy generation.	3/30/77	Rasmussen, Others	4/8/77	Not Concurred In	4/9
SB 80	Act to generally revise and clarify laws relating to collective bargaining and public employment relations.	4/5/77	Select Committee on State Pay	4/7/77	Concurred In	4/7

Basic fines were discussed. Mr. Waycik, Game Warden, told the committee that the current minimum fine is \$25.00 and the maximum fine is \$500.00. There is a bill pending to raise the minimum fine to \$50.00 and to levy some mandatory fines for certain violations.

The Chairman asked Mr. Nachtsheim if this fund will be properly funded under this bill and was told no, this would take care of the most dangerous area. The unfunded liability was \$3,093,000. The actuaries suggested 11.49% should be added to fund the unfunded liability and deficiency. The attempt is to keep the system from going backward.

The Chairman stated this is a perfect example of too many pension funds improperly funded.

The hearing was closed on Senate Bill 354.

SENATE BILL 167: Relating to taxation of income; providing incentives for installation of solar or other recognized non-fossil forms of energy generation... Senator A.T. Rasmussen, sponsor of the bill, explained the bill is designed to encourage renewable energy source installations through income tax incentives by allowing income tax credits to residences and businesses. The incentive formula is included in the bill. For the first \$1,000 of cost, 20% can be claimed as a credit; for the next \$3,000 of cost, 10% can be claimed, for a total of \$500 credit on residences. Business credits are explained on page 3, lines 10 and 11 of the bill. The program is designed to end on December 31, 1982. A practical side-effect is that this encourages growth through job creation in the area of construction. This bill would encourage solar plant installation, which is a concept that is available now.

Larry D. Geske, Executive Vice President, Great Falls Gas Company, spoke in support of the bill, explaining that Great Falls Gas has done a great deal of research into the marketing of solar heating systems in Montana (testimony attached).

Ernest Post, Montana State AFL-CIO spoke in support, stating that Montana should look into alternate energy sources. He cited examples of problems created in the East last winter through energy shortages, and said we can't wait for those problems to arrive in Montana to begin looking at the problem. He urged the passage of this bill.

The Chairman commended Mr. Geske and the Great Falls Gas Company for their efforts in the field of solar energy. There being no opponents, the hearing was opened to questions from the committee.

Representative Marks asked Mr. Geske a question concerning the amortization figure (attached). He wondered what the annual fuel bill on it was now. Mr. Geske replied that it was about \$275

annually, with a 12% escalation per year projected. Representative Marks then asked how much it would cost to install a solar unit and was told it would cost about \$4,500-\$5,000 for most residences.

Representative Gerke questioned if it made much difference in cost if the installation were in a new or an old home. Mr. Geske replied that it is harder to install in an older home, and usually more expensive. There is an estimated 50% savings in fuel costs with a solar unit.

Representative Wood asked Senator Rasmussen how this bill compared with House Bill 292. Senator Rasmussen replied that that bill related to cost of the units as a deduction versus a tax credit. House Bill 292 was of a different scope; this bill just encompasses renewable energy systems.

In closing, Senator Rasmussen stated he would like to second the Chairman's commendation of Great Falls Gas Company for their interest in moving in the direction of alternative renewable energy sources. There is a great deal of interest in this type of legislation. It is supported by the Chamber of Commerce, AFL-CIO, and the EIC. Other states already have this type of legislation. He explained that New Mexico has implemented similar legislation, and told the committee how it works in that state. From New Mexico's experience, it would indicate that the fiscal note is grossly inflated. For instance, in administering this in New Mexico, they have had a good experience with one man spending 10% of his time monitoring the claims. This is not complicated to administer.

Senator Rasmussen spoke of the depletion allowances written into federal taxes for fossil fuels. The same incentives on renewable, clean sources of energy would possibly have prevented the crisis we are in now. The MEAC study and Citizens Advisory Study on energy include specific recommendations on this type of incentive.

The hearing was closed on Senate Bill 167.

SENATE BILL 142: Remit one-fifth of fines collected in justice courts for traffic offenses to local government for communications purposes. Senator L.M. Aber explained he had been asked to carry this bill by the Highway Patrol. It does not require any new money to be generated from the taxpayers. A few years ago, communications centers were set up in each county; game wardens, sheriffs, and the patrol are all on the same network, and it is working very well. As communication equipment becomes more sophisticated and expensive, counties, cities, and towns need this type of assistance to provide the communication service to the patrol.

be enacted.

THERE WERE NO OPPONENTS AND NO PROPONENTS.

Hearing closed on S.B. 188.

Senate Bill 93: Bond Validating Act. Representative Bardanouve explained that this bill was to have been heard yesterday, and Attorney Diane Dowling was available to explain the bill at that time. However, we ran out of time and we did not have the hearing. This is a bill that must be passed each session, the Chairman stated. He then briefly explained the purpose of the bill. There being no questions from the committee and no opponents or proponents, hearing closed on S.B. 93.

EXECUTIVE SESSION

SENATE BILL 93: Rep. Lund moved that S.B. 93 BE CONCURRED IN. Seconded and question called. VOTE: Motion carried unanimously with three members absent. (Gunderson, South and Kvaalen)

SENATE BILL 99: There was brief discussion as to the amount of the fiscal impact. Rep. Manuel moved that S.B. 99 be TABLED. VOTE: Motion carried with 9 members voting aye; 5 no; 3 absent. (Roll call vote attached)

SENATE BILL 188: Representative Moore moved that S.B. 188 be NOT CONCURRED IN. SUBSTITUTE MOTION by Rep. Marks that S.B. 188 be TABLED. SUBSTITUTE MOTION TO ALL MOTIONS PENDING by Rep. Lynch that S.B. 188 be CONCURRED IN. VOTE: BE CONCURRED IN: Motion failed by roll call vote, 4 aye; 9 no; 3 absent; 1 abstain. VOTE: On motion that S.B. 188 BE TABLED. Motion carried with 11 members voting aye; 3 no; 3 absent. (Roll call vote attached)

SENATE BILL 421: Representative Lynch moved that S.B. 421 BE CONCURRED IN. VOTE: Motion carried unanimously, with three absent. (Gunderson, South and Kvaalen)

SENATE BILL 239: Representative Manuel moved that S.B. 239 BE CONCURRED IN. VOTE: Motion carried unanimously by voice vote. (3 members absent - Gunderson, South and Kvaalen)

SENATE BILL 167: Representative Moore moved that S.B. 167 BE NOT CONCURRED IN. Seconded and question called. VOTE: Motion carried with 8 voting aye; 6 no; 3 absent. (Roll call vote attached).

SENATE BILL 354: Representative Moore moved that S.B. 354 BE NOT CONCURRED IN. Discussion was held by the committee about the amount of funding - \$57,000 in 1978 and \$61,000 in 1979. This won't pick up the back-log, but keeps the fund from going further behind.

TAXATION COMMITTEE

45TH Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 211	To provide for assessment and taxation of severed mineral interests; amending 84-429.	3/29	Towe	4/1	NOT BE CONCURRED IN Ret'd. to Comte 4/5 Not reconsidered	4/5 4/6
SB 167	Providing incentives for the installation of solar or other non-fossil forms of energy generation.	4/13	Rasmussen	--	BE CONCURRED IN	4/16

TAXATION COMMITTEE
45TH LEGISLATURE

Chairman Herb Huennekens, called the Taxation committee to order April 16, 1977, in room #434, at 1:00 p.m. Reps. Gilligan, Sivertsen, and O'Keefe were absent, all others were present. The meeting was to take further action on Senate Bill 167.

After discussion, Rep. Fagg moved that the "sunset" provision be eliminated. This motion carried with Rep. Lien voting No.

Rep. Lien moved that the committee make a recommendation to take the deduction route rather than the credit route in figuring the tax credits. This motion failed with all members voting No except Rep. Lien.

The question of whether a ceiling should be put on the credits allowed was raised.

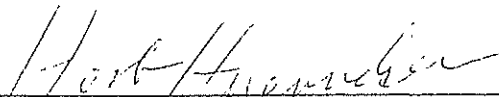
Senator Rasmussen, sponsor of SB 167, agreed with the business area being allowed credit be eliminated, and to make credits 10% and 5%, and 5% and 2 1/2%.

The general opinion of the committee is that the rate should be high enough to provide a good incentive.

Rep. Williams moved that 6% and 3% as shown on Alternative #1 be recommended. This motion was withdrawn after further discussion.

Rep. Lien made a substitute motion to use the 10% and 5% credit allowances as shown in Alternative #1. The percentages on page 2, line 4 would then be changed from 10% to 5%, and from 5% to 2 1/2%. This motion carried with Rep. Fabrega voting No.

Meeting adjourned at 1:30 p.m.



REP. HERB HUENNEKENS, CHAIRMAN

be amended in the third reading bill as follows:

1. Amend title, lines 9, 10 and 11.

Following: "INCOME"

Strike: "OR LICENSE"

Following: "TAX"

Strike: "CREDITS AND ACCELERATED AMORTIZATION OF"

Insert: "CREDIT FOR"

Following: "AMENDING"

Strike: "SECTIONS 84-1502 AND"

Insert: "SECTION"

2. Amend page 1, section 1, line 24.

Following: "40%"

Strike: "20%"

Insert: "10%"

Following: "20%"

Strike: "10%"

Insert: "5%"

3. Amend page 2, section 1, line 4.

Following: "20%"

Strike: "10%"

Insert: "5%"

Following: "40%"

Strike: "5%"

Insert: "2 1/2%"

4. Amend page 2, line 21, through line 6 on page 5.

Following: line 20

Strike: Sections 2 and 3 in their entirety

Renumber subsequent sections.

5. Amend page 5, section 4, lines 20-22.

Following: line 19

Strike: lines 20 through 22 in their entirety

6. Amend page 5, line 25 and line 1, page 6.

Following: line 24

Strike: subsection (c) in its entirety

7. Amend page 5, line 2 through line 5, page 11.

Following: line 1

Strike: Section 5 in its entirety

Renumber subsequent sections.

SENATE BILL NO. 167

INTRODUCED BY RASMUSSEN, HAGER, BROWN, ROBERTS,

KOLSTAD, JERGESON, LENSINK, STEPHENS, BLAYLOCK, WARDEN

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE TAXATION OF INCOME; PROVIDING INCENTIVES FOR THE INSTALLATION OR ACQUISITION OF SOLAR OR OTHER RECOGNIZED NONFOSSIL FORMS OF ENERGY GENERATION BY TAXPAYERS BY PROVIDING INCOME OR ~~LICENSE TAX CREDITS AND ACCELERATED AMORTIZATION OF CREDIT FOR~~ THE COSTS OF THE SYSTEMS; AMENDING SECTIONS ~~84-1502~~ AND SECTION 84-4906, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Energy system tax incentive for individuals. (1) A resident individual taxpayer who completes installation of an energy system using a recognized nonfossil form of energy generation, as defined in 84-7402, in such taxpayer's principal dwelling prior to December 31, 1982, or who acquires title to a dwelling prior to December 31, 1982, which dwelling is to be used as the taxpayer's principal dwelling and is equipped with an energy system for which the credit allowed by this section has never been claimed, is entitled to claim a tax credit in an amount equal to ~~40%~~ 20% ~~10%~~ of the first \$1,000 and ~~20%~~ 10%

5% of the next \$3,000 of the cost of such system, including installation costs, LESS GRANTS RECEIVED or, if the federal government provides for a tax credit substantially similar in kind (not in amount), then a tax credit in an amount equal to ~~20%~~ 10% ~~5%~~ of the first \$1,000 and ~~10%~~ 5% ~~2 1/2%~~ of the next \$3,000 of the cost of such system, including installation costs, LESS GRANTS RECEIVED against the income tax liability imposed against such taxpayer pursuant to Title 84, chapter 49, R.C.M. 1947.

(2) The tax credit is to be deducted from the taxpayer's income tax liability for the taxable year in which the energy system was acquired by the taxpayer. If the amount of the tax credit exceeds the taxpayer's income tax liability for the taxable year, the amount which exceeds the tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability. Notwithstanding the foregoing provision, no tax credit may be carried over for deduction after the fourth taxable year succeeding the taxable year in which the energy system was acquired.

~~Section 2. Energy system tax incentive for real property owners. A taxpayer, including a corporation, who completes installation of an energy system using a recognized nonfossil form of energy generation, as defined~~

1 which the energy system is acquired and placed into service
2 by the taxpayer
3 section 3a amortize energy system costs
4 (i) A taxpayer who completes installation of an energy
5 system using a recognized nonfossil form of energy
6 generation as defined in 04-7402y upon real property
7 located within this state prior to December 31y 1982y which
8 real property is either used in a trade or business or held
9 for the production of income or any taxpayer who acquires
10 title to real property located within this state prior to
11 December 31y 1982y which real property is used in a trade or
12 business or held for the production of income and is
13 equipped with such an energy system may elect to amortize
14 the adjusted basis of the energy system based upon a period
15 of 60 months
16 (2) in computing Montana taxable income amortization
17 is to be allowed as a deduction from Montana adjusted gross
18 income rebate over the 60-month period beginning with the
19 month in which the energy system is completed or acquired
20 and placed into service by the taxpayer the election of the
21 taxpayer to claim the amortization deduction allowed by this
22 section is to be indicated in an appropriate statement
23 attached to the taxpayer's income tax return for the taxable
24 year in which the energy system was completed or acquired
25 and placed into service the election of the taxpayer to

1 in 04-7402y upon real property located within this state
2 prior to December 31y 1982y which real property is either
3 used in a trade or business or held for the production of
4 income or any taxpayer who acquires title to real property
5 located within this state prior to December 31y 1982y which
6 real property is used in a trade or business or held for the
7 production of income and is equipped with an energy system
8 for which the credit allowed by this section has never been
9 claimed is entitled to claim an income tax credit or in the
10 case of a corporation a license tax credit or income tax
11 credit in an amount equal to 40% 20% of the first \$3y000 and
12 20% 10% of the next \$3y000 of the cost of the energy system
13 including installation costs LESS GRANTS RECEIVED or if the
14 federal government provides for a tax credit substantially
15 similar in kind (not in amount) then an income tax credit
16 in an amount equal to 20% 10% of the first \$3y000 and 10% 5%
17 of the next \$3y000 of the cost of the energy system
18 including installation costs LESS GRANTS RECEIVED or an
19 amount equal to the taxpayer's income tax liability in the
20 taxable year for which the credit is claimed whichever is
21 less against the tax liability imposed against such
22 taxpayer pursuant to title 04y chapter 49y Revenue 1947 or in
23 the case of a corporation pursuant to title 04y chapter 15
24 or chapter 69y Revenue 1947y the tax credit is to be deducted
25 from the taxpayer's tax liability for the taxable year in

claim the amortization deduction does not preclude him from taking the tax credit.

(3) As used in this section, "adjusted basis of the energy system" means an amount that is properly attributable to the construction, reconstruction, remodeling, installation, or acquisition of the system ~~LESS AMOUNTS OF GRANTS RECEIVED.~~

Section 2. Section 84-4906, R.C.M. 1947, is amended to read as follows:

"84-4906. Deductions allowed in computing net income. In computing net income, there shall be are allowed as deductions:

(a) The ~~the~~ items referred to in sections 161 and 211 of the Internal Revenue Code of 1954, or as sections 161 and 211 shall be labeled or amended, except that state income tax paid shall not be deductible and also subject to the following exceptions provided in section 84-4909, relating to items which are not deductible:

(i) items provided for in 84-4909;

(ii) state income tax paid;

~~(iii) all depreciation deductions claimed on the federal return for any portion of property upon which the deduction allowed by [section 3 of this act] is claimed;~~

(b) Federal ~~federal~~ income tax paid within the taxable year;

~~(c) an amount for the amortization deduction for an energy system allowed pursuant to [section 3 of this act];~~

Section 5. Section 84-1502, R.C.M. 1947, is amended to read as follows:

"84-1502. Deductions allowed in computing income in computing the net income the following deductions shall be allowed from the gross income received by such corporation within the year from all sources:

1. ~~All the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, subject to the limitation hereinafter contained, rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity. No deduction shall be allowed for salaries paid upon which the recipient thereof has not paid Montana state income tax; provided, however, that where domestic corporations are taxed on income derived from without the state, salaries of officers paid in connection with securing such income shall be deductible.~~

2. (A) All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and

1 ~~wear and obsolescence of property used in the trade or~~
 2 ~~business--such allowance to be determined according to the~~
 3 ~~provisions of section 167 of the internal revenue code in~~
 4 ~~effect with respect to the taxable year. However, insofar as~~
 5 ~~the election to amortize the adjusted basis of an energy~~
 6 ~~system based upon a period of 60 months pursuant to section~~
 7 ~~3 of this act is not permissible under federal law, an~~
 8 ~~amount for the amortization deduction for an energy system~~
 9 ~~allowed pursuant to section 3 of this act is allowed and~~
 10 ~~the amount of all depreciation deductions claimed on the~~
 11 ~~federal return for any portion of property upon which the~~
 12 ~~deduction allowed by section 3 of this act is claimed are~~
 13 ~~not allowed. All elections for depreciation shall be the~~
 14 ~~same as the elections made for federal income tax purposes.~~
 15 ~~No deduction, except as provided above, shall be allowed for~~
 16 ~~any amount paid out for any buildings, permanent~~
 17 ~~improvements or betterments made to increase the value of~~
 18 ~~any property or estate and no deduction shall be made for~~
 19 ~~any amount of expense of restoring property or making good~~
 20 ~~the exhaustion thereof for which an allowance is or has been~~
 21 ~~made.~~

22 ~~(b) (a) There shall be allowed as a deduction for the~~
 23 ~~taxable period a net operating loss deduction determined~~
 24 ~~according to the provisions of this subsection. The net~~
 25 ~~operating loss deduction is the aggregate of net operating~~

1 ~~loss carryovers to such taxable period plus the net~~
 2 ~~operating loss carrybacks to such taxable period. The term~~
 3 ~~"net operating loss" means the excess of the deductions~~
 4 ~~allowed by this section, 84-1502, over the gross income~~
 5 ~~with the modifications specified in paragraph (b) of this~~
 6 ~~subsection. If for any taxable period beginning after~~
 7 ~~December 31, 1970, a net operating loss is sustained, such~~
 8 ~~loss shall be a net operating loss carryback to each of the~~
 9 ~~three (3) taxable periods preceding the taxable period of~~
 10 ~~such loss and shall be a net operating loss carryover to~~
 11 ~~each of the five (5) taxable periods following the taxable~~
 12 ~~period of such loss. The portion of such loss which shall be~~
 13 ~~carried to each of the other taxable years shall be the~~
 14 ~~excess, if any, of the amount of such loss over the sum of~~
 15 ~~the net income for each of the prior taxable periods to~~
 16 ~~which such loss was carried. For purposes of the preceding~~
 17 ~~sentence, the net income for such prior taxable period shall~~
 18 ~~be computed with the modifications specified in paragraph~~
 19 ~~(b) (ii) of this subsection and by determining the amount of~~
 20 ~~the net operating loss deduction without regard to the net~~
 21 ~~operating loss for the loss period or any taxable period~~
 22 ~~thereafter, and the net income so computed shall not be~~
 23 ~~considered to be less than zero.~~

24 ~~(b) The modifications referred to in paragraph (a) of~~
 25 ~~this subsection shall be as follows:~~

1 ~~(i) No net operating loss deduction shall be allowed~~
 2 ~~(ii) The deduction for depletion shall not exceed the~~
 3 ~~amount which would be allowable if computed under the cost~~
 4 ~~methods~~

5 ~~(c) A net operating loss deduction shall be allowed~~
 6 ~~only with regard to losses attributable to the business~~
 7 ~~carried on within the state of Montana~~

8 ~~(d) In the case of a merger of corporations, the~~
 9 ~~surviving corporation shall not be allowed a net operating~~
 10 ~~loss deduction for net operating losses sustained by the~~
 11 ~~merged corporations prior to the date of merger~~

12 ~~In the case of a consolidation of corporations, the new~~
 13 ~~corporate entity shall not be allowed a deduction for net~~
 14 ~~operating losses sustained by the consolidated corporations~~
 15 ~~prior to the date of consolidation~~

16 ~~(e) Notwithstanding the provisions of section~~
 17 ~~84-1588, (c), R.C.M. 1947, interest shall not be paid with~~
 18 ~~respect to a refund of tax resulting from a net operating~~
 19 ~~loss carryback or carryover~~

20 ~~(f) The net operating loss deduction shall not be~~
 21 ~~allowed with respect to taxable periods which ended on or~~
 22 ~~before December 31, 1970, but shall be allowed only with~~
 23 ~~respect to taxable periods beginning on or after January 1,~~
 24 ~~1971~~

25 ~~3. In the case of mines, other natural deposits, oil~~

1 ~~and gas wells, and timber, a reasonable allowance for~~
 2 ~~depletion and for depreciation of improvements, such~~
 3 ~~reasonable allowance to be determined according to the~~
 4 ~~provisions of the internal revenue code in effect for the~~
 5 ~~taxable years. All elections made under the internal revenue~~
 6 ~~code with respect to capitalizing or expensing exploration~~
 7 ~~and development costs and intangible drilling expenses for~~
 8 ~~corporation license tax purposes shall be the same as the~~
 9 ~~elections made for federal income tax purposes~~

10 ~~4. The amount of interest paid within the year on its~~
 11 ~~indebtedness incurred in the operation of the business from~~
 12 ~~which its income is derived, but no interest shall be~~
 13 ~~allowed as a deduction if paid on an indebtedness created~~
 14 ~~for the purchase, maintenance or improvement of property or~~
 15 ~~for the conduct of business unless the income from such~~
 16 ~~property or business would be taxable under this act~~

17 ~~5. Interest income from obligations of the state of~~
 18 ~~Montana or any political subdivision or municipality of the~~
 19 ~~state of Montana~~

20 ~~6. Taxes paid within the year except the following:~~

21 ~~(a) Taxes imposed by this act~~

22 ~~(b) Taxes assessed against local benefits of a kind~~
 23 ~~tending to increase the value of the property assessed~~

24 ~~(c) Taxes on or according to or measured by net income~~
 25 ~~or profits imposed by authority of the government of the~~

1 ~~United States~~
2 ~~(d) Taxes imposed by any other state or country upon~~
3 ~~or measured by net income or profits~~
4 ~~Taxes deductible under this act shall be construed to~~
5 ~~include taxes imposed by any county, school district or~~
6 ~~municipality of this state.~~
7 Section 3. There is a new R.C.M. section that reads as
8 follows:
9 Department of revenue duties. The department of revenue
10 shall prescribe rules necessary to carry out the purposes of
11 this act.
12 Section 4. There is a new R.C.M. section that reads as
13 follows:
14 Time of application. The provisions of this act apply
15 to all taxable years commencing after December 31, 1976.

-End-